

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for dates of service 03/05/01 through 04/13/01.
- b. The request was received on 03/08/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFAs
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/03/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/04/02. The response from the insurance carrier was received in the Division on 06/18/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information Submitted by the Requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 05/24/02
“(Provider)’s position is that the fees paid for these services by the carrier were not ‘fair and reasonable.’....Examples of what other insurance companies reimbursed (Provider) for CPT 97799-CPAP during the service dates....(Provider) is also enclosing a study it conducted in 2001. The study surveyed what insurance companies were paying for CPT 97799-CPAP....More of the insurance companies paid \$175 than any other single fee...Recent decisions by TWCC’s Medical Dispute Resolution Officers also

supports (Provider)'s position that \$175 per hour for CPT 97799 is a fair and reasonable fee....(Provider)'s assertion that its [sic] fees are fair and reasonable has been upheld in a recent SOAH decision..."

2. Respondent: Letter dated 06/18/02
"The Requestor billed \$175/hr for these services, and the Respondent reimbursed at a fair and reasonable rate of \$115....The Requestor's documentation fails to establish that the hourly rate of \$175/hr is fair and reasonable....Of the 41 Carrier's [sic] surveyed by the Requestor..., only 16 reimbursed the Requestor at the rate of \$175/hr. The other 25 Carriers reduced the charge, the lowest rate paid being \$88. The majority of Carriers simply do not reimburse this Requestor at the rate it charges – most Carriers reduce these charges to a fair and reasonable rate. The average hourly rate, if we are to judge from the Requestor's own documentation, is actually \$138.40...a review of the Requestor's documentation does not support the charges as billed....The Requestor has billed between seven and eight hours daily, but the documentation rarely supports this billing...the Requestor has not offered any reason as to why the Respondent's reductions are inappropriate. Simply because the Requestor bills \$175 for its [sic] services does not entitle it to the full amount of the bill."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 03/05/01 through 04/13/01.
2. Per the provider's TWCC-60, the amount billed is \$41,825.00; the amount paid is \$27,485.00; the amount in dispute is \$14,340.00.
3. The carrier denied the billed services by code, **"UNLISTED PHYSICAL MEDICINE/REHABILITATION SERVICE OR PROCEDURE."**
4. The provider billed CPT code 97799-CP-AP for DOS in dispute.

V. RATIONALE

Medical Review Division's rationale:

The Medical Fee Guideline Medicine Ground Rule (II) (C) defines the Chronic Pain Management Program as an interdisciplinary program which can be accredited by CARF. If the program is accredited by CARF, the program shall use the modifier "-AP" when billing for services. The provider billed with the appropriate modifiers of "CP" for Chronic Pain Program and "AP" for CARF accreditation.

MFG MGR (II) (G) (9) states, "Chronic Pain Management shall be billed as code 97799-CP for each day and the number of hours in the program indicated on the bill." The provider billed the Chronic Pain Management Program in accordance with the MFG.

§ 134.304 (c) states, “At the time an insurance carrier makes payment or denies payment on a medical bill, the insurance carrier shall send, in the form and manner prescribed by the Commission, the explanation of benefits to the appropriate parties. The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier’s action(s)...” The carrier failed to submit explanation of benefits which included the correct payment exception codes required by the Commission’s instructions or provide the provider with sufficient explanation to allow the provider to understand the reason for the denial.

The provider billed the services in accordance with the MFG. The carrier failed to meet the standards set forth in § 134.304 (c), therefore, reimbursement in the amount of \$14,340.00 is recommended.

The above Findings and Decision are hereby issued this 11th day of October 2002.

Donna M. Myers
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$14,340.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 11th day of October 2002.

David R. Martinez
Manager, Medical Dispute Resolution
Medical Review Division

DM/dmm